

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

Claims 1, 2, 6 and 25 are amended presently. Claim 39 is newly added to depend from Claim 25. Claims 1, 2 and 6 are amended following what were agreed upon during the telephone interview with the Examiner on 01/30/09. Support for new Claim 39 and for the changes in Claim 25 can be found, e.g., in Paragraph [0032].

With the foregoing amendments, Claims 1, 2, and 5-39 are currently pending in this application.

Rejection under 35 USC § 112, second paragraph

Claims 25-27 are rejected under 35 USC 112, 2nd paragraph, as being indefinite. The Examiner points out that some of the phrases used in Claim 25 lack antecedent basis or they are vague and indefinite. In response to this rejection, Claim 25 has been amended to eliminate those phrases that are subject to the rejection under 35 USC 112. For this reason, withdrawal of the rejection of Claim 25-27 under 35 USC 112 is respectfully requested.

Rejections under 35 USC § 103(a)

Claims 25 and 26 are rejected under 35 USC §103(a) as being unpatentable over Jones (US 2003/0213721) in view of Leblong (US 5,758,774) or Williams-Hartman (US 2004/0182738). Claim 27 is rejected under 35 USC 103(a) as being unpatentable over Jones in view of Leblong or Williams-Hartman and further in view of Boone (US 4,870,764). In response to this rejection, Claim 25 has been amended.

Applicant submits that no combination of Jones '721, Leblong '774, Williams-Hartman '738 and Boone '764 can provide the invention as defined now by Claim 25 for the following reasons.

Claim 25, in its current form, covers:

an adhesive coating formed on the tab panel and the tabs thereof;

...

Jones '721 discloses two flaps 7 with a plurality of glue tabs 10 and peel away tabs 9, as per Paragraph [0015]. The two tab-containing flaps have discretely positioned areas of glue thereon in order to allow the glue-free peel-away tabs 9 thereof to function easily and not stick to a corresponding gate area. Jones '721 does not disclose an adhesive coating formed on the peel away tabs 9. Jones '721 even teaches away from forming an adhesive coating on the peel away tabs 9.

Leblong '774 discloses a third layer 17 having a detachable tab 27 and a release coating/agent coated on a side in contact with a second layer 12. However, it is silent about forming an adhesive coating on the detachable tab 27 or on any other part of the third layer 17.

In the Office Action, the Examination takes a position that William-Hartman '738 teaches a release agent 304 applied to a gate panel 301 to prevent adhesion of at least one gate 302, 303, 304 to a seal 104. Provided that the Examiner's position is correct, William-Hartman '738 cannot at the same time correctly be interpreted as disclosing even a tab panel itself.

Boone '764 shows a package in which an aperture panel 1, a gate panel 11 and another panel 3 are joined together. It is silent about any sort of adhesive coating being used in conjunction with the package.

None of Jones '721, Leblong '774, Williams-Hartman '738 and Boone '764 teaches an adhesive coating that is formed on tabs of a tab panel. Thus, no combination of Jones '721, Leblong '774, Williams-Hartman '738 and Boone '764 can provide the invention as now defined by Claim 25.

Applicant also submits that one of ordinary skill in the art at the time the invention was made would not have modified Jones '721 with Leblong '774, Williams-Hartman '738, Boone '764, or any of the other cited references under 35 USC §103(a) in order to arrive at the invention as now claimed in Claim 25, for the following reasons:

Claim 25, in its current form, covers:

an adhesive coating formed on the tab panel and the tabs thereof;
and
a release agent applied to selective areas of the adhesive coating to prevent adhesion of the gates of the gate panel to the adhesive coating; ...

Jones '721 discloses a peel-away child resistant package 300, 400 (Figs. 1-4). The package includes two flaps 7 with a plurality of glue tabs 10 and peel away tabs 9, as per Paragraph [0015]. However, Jones '721 is completely silent regarding any sort of release agent being used in conjunction with such a package. Furthermore, the two tab-containing flaps have discretely positioned areas of glue thereon in order to allow the glue-free peel-away tabs thereof to function easily and not stick to a corresponding gate area. Thus, Jones '721 fails to anticipate or render obvious current claim 25.

Moreover, one of ordinary skill in the art would not have modified Jones '721 with Leblong '774, Williams-Hartman '738, Boone '764, or any of the other cited references in order to supply an adhesive coating on the peel away tabs 9 of flaps 7 and then apply a release agent to the adhesive coating to regain that peel-away ability. First of all, such an adhesive coating would have eliminated the peel-away capability of the tabs 9 and thus would have rendered Jones '721 unsatisfactory for an intended purpose thereof (MPEP §2143.01). Additionally, attempting to regain the peel-away capability by providing an additional release agent would have constituted a change in principle of operation of Jones '721 (MPEP §2143.01) by eliminating the discrete placement of glue on the flap 7 thereof and by requiring a further step to achieve the desired peel-away

ability. Thus, one of ordinary skill in the art at the time the invention was made would not have modified Jones '721 with Leblong '774, Williams-Hartman '738, Boone '764, or any of the other cited references under 35 USC §103(a) in order to arrive at the subject matter of Claim 25, as currently provided.

Accordingly, Applicant submits that Claim 25, as well as Claims 26 and 27 that depend from Claim 25, are now in condition for allowance over Jones '721, Leblong '774, Williams-Hartman '738, Boone '764, or any of the other cited references, taken alone or in combination, and thus respectfully requests the allowance of such claims.

Allowable Subject Matter

On Pages 2 and 3 of the Office Action, the Examiner indicates the changes in Claims 1, 2 and 6 that were agreed upon during the telephone interview between the Examiner and Jeffrey T. Knapp, a named agent, on 1/30/09. The Examiner states that Claims 1, 2, 5-24 and 28-38 would be allowable if Applicant amends the claims as indicated in the Office Action. Applicant carefully reviewed those changes and amended Claims 1, 2 and 6 accordingly. Thus, Claims 1, 2, 5-24 and 28-38 are believed allowable.

Conclusion

Applicant believes that the present application is in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

If any fees are due in connection with the filing of this Amendment, including any excess claim fees, please charge the fees to 132512. If a fee is required for and extension of time under CFR § 1.136 that is not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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